IN THE UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF NORTH CAROLINA
No. 07 667

ROBERT D. COBB Plaintiff, v. FOX NEWS NETWORK, LLC Defendant,	))))))))))))	NOTICE OF REMOVAL (from Guilford Co., N.C., Superior Court, Civil Action No. 07-CVS-8908)

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant Fox News Network LLC. ("FNC"), by and through its undersigned counsel, hereby files this Notice of Removal in the action captioned *Robert D. Cobb v. Fox News Network, LLC*, Case No. 07 CVS 8908 in the General Court of Justice, Superior Court, in Guilford County, North Carolina (the "State Court Action"), and state as follows:

1. Plaintiff Robert D. Cobb ("Cobb") commenced the State Court Action by filing a Summons and Complaint on August 7, 2007. The Summons and Complaint were served on FNC by personal service on August 9, 2007. Copies of the Summons and Complaint (the "Complaint") are attached hereto as Exhibit A.

2. FNC at the time this action was filed and as of the date of this Notice, was and is a Delaware limited liability company with its principal place of business in New York, New York.

3. According to the Complaint, at the time this action was filed and as of the date of this Notice, Plaintiff was and is a citizen and resident of North Carolina. (Complaint ¶ 2.)

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4. The amount in controversy in this action exceeds, exclusive of interest and costs, the sum of $75,000. In his Complaint, Plaintiff demands in excess of $10,000 in compensatory and punitive damages. (Complaint ¶ 6.) Under North Carolina Rules Civ. Proc., G.S. § 1A-1, Rule 8(a)(2), because Plaintiff has brought a claim for negligence and a claim for punitive damages, even though "the matter in controversy exceeds the sum or value of ten thousand dollars ($10,000)," Plaintiff could not "state the demand for monetary relief," and was required to merely allege "that the relief demanded is for damages incurred or to be incurred in excess of ten thousand dollars ($10,000)." Based, however, on Plaintiff's allegations in the Complaint that "millions of readers around the country and world" and "thousands of readers in the State of North Carolina viewed" the allegedly defamatory article and that he was injured and continues to be injured by that publication (Complaint ¶¶ 3, 17, 25), it is clear that Plaintiff is seeking damages in this action in excess of $75,000. *See, e.g.*, *Dash v. FirstPlus Home Loan Owner Trust 1996-2*, 248 F. Supp. 2d 489, 496-98 (M.D.N.C. 2003) (because, "the amount of damages [the] plaintiff [sought was] unclear," the court used its "common sense" "to conclude that the amount in controversy exceeds $75,000") (internal quotations omitted).

5. This Court has original jurisdiction over this action pursuant to the provisions of 28 U.S.C. § 1332, because Plaintiff and FNC were and are citizens of different states and the amount in controversy is in excess of $75,000, exclusive of interest and costs.

6. This action is properly removed to the United States District Court for the Middle District of North Carolina pursuant to 28 U.S.C. § 1441(a) in that said District Court embraces the state court where the State Court Action was filed.

7. FNC desires to remove this action to this Court and submit this Notice, along with all other process and pleadings that have been served upon FNC. *See* Exhibit A. FNC has not

filed an appearance, answer, or other pleadings in the State Court Action. FNC is not aware of any other process, pleadings or orders filed in the State Court Action.

8. A copy of this Notice of Removal is being served upon Plaintiff's counsel. A copy of this Notice of Removal and supporting papers is being filed with the General Court of Justice, Superior Court, in Guilford County, North Carolina, as required by 28 U.S.C. § 1446(d).

9. This Notice is filed with this Court within 30 days after August 9, 2007, the first day on which FNC was served with the initial pleading setting forth the claim upon which this suit is based. Removal, therefore, is timely pursuant to 28 U.S.C. § 1446(b) and *Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344 (1999).

10. FNC does not waive and hereby expressly reserves any objections it may have to service, jurisdiction or venue, and any other defenses or objections to this action.

WHEREFORE, Defendant Fox News Network, LLC prays that the action pending against it in the General Court of Justice, Superior Court in Guilford County, North Carolina be removed to this Court.

This the 6th day of September, 2007.

/s/ Hugh Stevens
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Attorneys for the Defendant

Certificate of Service

The undersigned counsel certifies that the foregoing Notice of Removal was served upon the plaintiff's counsel of record by depositing a copy thereof in the United States Postal Service, first class postage prepaid, addressed to:

Drew Brown
Benson & Brown, PLLC
301 N. Greene Street
Greensboro, North Carolina 27401

This the 6th day of September, 2007.

/s/ Hugh Stevens